

REMARKS

I. Introduction

Claims 1-16 and 30-33 are pending in the application. In the Office Action dated Sept. 12, 2006, the Examiner rejected claims 1, 2, 5, 8, 11, 13, 16, 30, and 32 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 3,858,572 ("Binard"). Further, claims 3, 4, and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Binard in view of U.S. Pat. Pub. No. 2002/0059933 ("Jaffe"); claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Binard in view of U.S. Pat. No. 6,042,573 ("Lucey"); claims 9, 10, and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Binard in view of U.S. Pat. No. 6,068,609 ("Ott"); and claims 12, 14, 15, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Binard. In this Amendment, claims 1 and 30 have been amended and claims 37-40 have been added. Applicant respectfully requests reconsideration and withdrawal of the rejections to the claims.

II. Binard Does Not Anticipate Independent Claim 1

Amended independent claim 1 recites at least one dual-capacity tube having a first tube with a first end and a second end, the at least one dual-capacity tube having a pair of tubes each having a first end attached with the second end of the first tube, wherein an inner diameter of the first tube is greater than an inner diameter of each tube of the pair of tubes. Binard fails to disclose at least this element.

Binard is directed to an insufflation device. While Binard may teach a dual capacity tube having a first tube with a pair of tubes attached to the first tube, Binard fails to teach a dual-capacity tube wherein an inner diameter of the first tube is greater than an inner diameter of each tube of the pair of tubes attached to the first tube as recited in claim 1. For at least this reason, Binard necessarily cannot render independent claim 1, or any claim that depends on claim 1, unpatentable.

III. The Proposed Combinations Do Not Render Claim 1 Unpatentable

Like Binard, Jaffe, Lucy, and Ott each fail to teach at least one dual-capacity tube having a first tube with a first end and a second end, the at least one dual-capacity tube

having a pair of tubes each having a first end attached with the second end of the first tube, wherein an inner diameter of the first tube is greater than an inner diameter of each tube of the pair of tubes. For at least this reason, the proposed combinations of Binard, Jaffe, Lucy, and Ott necessarily do not render independent claim 1, or any claim that depends on claim 1, unpatentable.

IV. Binard Does Not Anticipate Independent Claim 30

Amended independent claim 30 recites at least one multi-capacity tube having a first tube with a first end and a second end, the at least one multi-capacity tube having at least two tubes each having a first end attached with the second end of the first tube, wherein an inner diameter of the first tube is greater than an inner diameter of each tube of the at least two tubes such that the multi-capacity tube is configured to maintain a rate of insufflation gas into the peritoneal cavity of at least 20 liters per minute. As discussed above Binard fails to disclose this element. For at least this reason, Binard necessarily cannot render independent claim 30, or any claim that depends on claim 30, unpatentable.

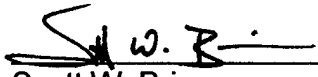
V. The Proposed Combinations Do Not Render Claim 30 Unpatentable

Like Binard, Ott fails to disclose at least one multi-capacity tube having a first tube with a first end and a second end, the at least one multi-capacity tube having at least two tubes each having a first end attached with the second end of the first tube, wherein an inner diameter of the first tube is greater than an inner diameter of each tube of the at least two tubes such that the multi-capacity tube is configured to maintain a rate of insufflation gas into the peritoneal cavity of at least 20 liters per minute. For at least this reason, the proposed combinations of Binard and Ott necessarily do not render independent claim 30, or any claim that depends on claim 30, unpatentable.

VI. Conclusion

In view of the foregoing remarks and amendments to the claims, Applicant submits that the pending claims are in condition for allowance. Reconsideration is therefore respectfully requested. If there are any questions concerning this Amendment, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,



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